IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.857 of 2007.

Date of decision: 7.12.2007.

State of H.P. **…….Petitioner**

Vs.

Manjeet Singh **…. Respondent.**

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

For the Appellant : Mr. M.L. Chauhan, Additional Advocate General.

For the Respondents : None.

***Kuldip Singh, Judge*.(Oral)**

This is an application of the State for seeking leave to file appeal against the judgment dated 20.9.2007 passed by learned Sessions Judge, Shimla in Criminal Appeal No.1-S/10 of 2006 acquitting the respondent under Sections 341, 323, 506-I IPC.

2. The prosecution case in brief is that PW-1 Subeg Singh lodged FIR Ex.PW-1/A on 18.5.2002 at Police Station, Sadar, Shimla alleging that on 18.5.2002 he along with his wife Smt. Gian Kaur was coming to the Court of learned Addl. Chief Judicial Magistrate, Court No.2, Shimla to attend a Court case, when they reached out side the office of Deputy Commissioner at about 9.45 A.M., respondent all of a sudden came there and gave teeth bite on the left hand index finger of the complainant and the complainant fell on the ground. The two

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Whether the reporters of the local papers may be allowed to see the Judgment? Yes

traffic police officials, who were on duty, rescued the complainant from the clutches of the respondent. The teeth bite of the respondent had pulled out and separated the nail of the complainant completely. The respondent obstructed the complainant from attending the Court and asked him to withdraw the case, otherwise he would kill him. The complainant was medically examined and his MLC is Ex.PW-4/A. Notice of accusation was put to the respondent under Sections 341, 323, and 506-I IPC, after conclusion of the trial the respondent was convicted for various terms under Sections 341, 323 and 506-I IPC and also fined by learned Addl. Chief Judicial Magistrate on 14.12.2005. The respondent filed appeal which has been allowed by learned Sessions Judge, Shimla, hence this application for seeking leave to file appeal.

3. The case of the complainant is that on 18.5.2002 when he was coming to the Court, respondent gave teeth bite on his left hand index finger. There is litigation between the parties. The learned Sessions Judge in these circumstances, has rightly observed that it will not be safe to have reliance on the sole testimony of the complainant. PW-2 HHC Tulsi Ram has admitted that he saw blood oozing out from the hand of Subeg Singh complainant but he does not know how the blood came out, meaning thereby that he does not know how such injury was sustained by Subeg Singh. PW-2 Khumesh Chand has also admitted in his cross-examination that he saw blood was coming out from the hand of Subeg Singh but he also does not know how Subeg Singh sustained injury. When PW-2 and PW-6 are not aware how the blood came out from the hand of

the complainant, therefore, it is reasonable to infer that they had not seen the occurrence and their testimony that respondent had threatened the complainant that he would kill him is also not believable. PW-4 Dr. Anjana Raina has stated that it depends upon the report of the Chemical Examiner whether the injuries were caused by some animal or human being, but no such medical examination was got done in this case. There is no explanation why Gian Kaur wife of complainant was not examined. The learned Sessions Judge has taken a possible view from the material on record. No case has been made out for granting leave to file appeal, hence petition is rejected.

(Kuldip Singh)
Judge.

December 7, 2007
(sks)